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and Correctional Officer Smith*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

JOSEPH L. MIZZONI,  
  
Plaintiff,  
  
vs.  
  
STATE OF NEVADA, et al.,  
  
Defendants.

Case No. 3:15-cv-00499-MMD-WGC

**NOTICE  
AVAILABILITY OF VIDEO  
MARCH 28, 2015**

Defendants, Ira Brannon and Correctional Officer Smith, by and through counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Erin L. Albright, Deputy Attorney General, hereby submit this Notice with this Court regarding the video tape requested by Plaintiff, Joseph L. Mizzoni ("Inmate Mizzoni or Mizzoni") in his Motion Seeking Permission to Obtain by Court Order Video Tape (ECF No. 50).

Inmate Mizzoni presently has two active litigation cases addressing the incident on March 28, 2015, in which Mizzoni asserts he was allegedly assaulted by Correctional Officer Smith. These matters include the instant matter, which addresses the disciplinary hearing. The other matter is Case No. 3:15-cv-00313, which addresses the alleged use of excessive force on Inmate Mizzoni by Correctional Officer Smith and others after Mizzoni allegedly expressed his disapproval with a cell search and quit his porter job. (ECF No. 40 in 3:15-cv-00313 at 10-11). In his opposition to Defendants' Motion for Summary Judgment in Case No. 3:15-cv-00313, Inmate Mizzoni raised the issue of video tape footage. In their reply to Mizzoni's opposition, Defendants apprised this

1 Court and Inmate Mizzoni that the incident on March 28, 2015 occurred in the rotunda of housing unit  
 2 5, an area that does not have video coverage; therefore, no video footage of the incident exists. (ECF  
 3 No. 62 in 3:15-cv-00313 at 5-6). The opposition also outlined that an investigation was conducted and  
 4 no video footage from any part of Northern Nevada Correctional Center (“NNCC”) capturing any  
 5 portion of the subject incident exists. (*Id.*)

6 In preparation for the June 15, 2017 hearing in this matter on Inmate Mizzoni’s Motion Seeking  
 7 Permission to Obtain by Court Order Video Tape (ECF No. 50), the undersigned requested her clients  
 8 double check their files regarding the existence of video footage of the March 28, 2015 incident. The  
 9 video footage taken and available on March 28, 2015 of housing units 4, 5, 7 and 8 at NNCC for the  
 10 time frame of 8:00 p.m. and 9:30 p.m. does not depict the incident involving Inmate Mizzoni. (Exh. A).

11 Further, the video taken by the cameras in housing units 4, 5, 7 and 8 is on a recording loop;  
 12 therefore, the video recording is not indefinitely retained by the NDOC. (*Id.*) The only time a video  
 13 recording from a camera in housing units 4, 5, 7 and 8 is indefinitely kept by the NDOC is if there is an  
 14 incident (*i.e.*, riot, assault against a correctional officer, assault against an inmate) that occurred and the  
 15 incident was recorded on video. (*Id.*) If that occurs, the NDOC will make a copy of the video  
 16 recording and retain the recording for its records. (*Id.*) Since the March 28, 2015 incident occurred in  
 17 an area where there is no video camera coverage, and there is no recorded video coverage of an incident  
 18 from March 28, 2015 involving Inmate Mizzoni, there is no video footage available to provide Mizzoni.  
 19 The video footage from that date has been recorded over as the video footage is on a recording loop and  
 20 is not indefinitely retained by NNCC or NDOC.

21 Dated this 22nd day of June, 2017.

22 ADAM PAUL LAXALT  
 23 Attorney General

24 By: 

25 ERIN L. ALBRIGHT  
 26 Deputy Attorney General  
 27 State of Nevada  
 28 Bureau of Litigation  
 Public Safety Division

*Attorneys for Defendant*

**CERTIFICATE OF SERVICE**

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on this 22nd day of June, 2017, I caused to be deposited for mailing a true and correct copy of the foregoing, **NOTICE AVAILABILITY OF VIDEO MARCH 28, 2015**, to the following:

Joseph L. Mizzoni #68549  
High Desert State Prison  
P.O. Box 650  
Indian Springs, NV 89070



An employee of the  
Office of the Attorney General